

ESTTA Tracking number: **ESTTA390374**

Filing date: **01/27/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92050920
Party	Plaintiff Intellect Technical Solutions, Inc.
Correspondence Address	WILLIAM G GILTINAN CARLTON FIELDS PA 4221 W BOY SCOUT BLVD , SUITE 1000 TAMPA, FL 33607-5780 UNITED STATES tgiltinan@carltonfields.com
Submission	Plaintiff's Notice of Reliance
Filer's Name	William Giltinan
Filer's e-mail	trademarks@carltonfields.com
Signature	/William Giltinan/
Date	01/27/2011
Attachments	First Notice of Reliance.pdf (2 pages)(50712 bytes) Ex 141.pdf (81 pages)(1598468 bytes)

**In The United States Patent And Trademark Office
Before The Trademark Trial And Appeal Board**

In re: Registration No. 3,009,990
Trademark: ENTELLECT
Registered November 1, 2005

INTELLECT TECHNICAL SOLUTIONS, INC.

Petitioner,

v.

MILENA SONI,

Respondent.

Cancellation No.: 92050920

PETITIONER'S FIRST NOTICE OF RELIANCE

Petitioner Intellect Technical Solutions, Inc. submits this Notice of Reliance in accord with 37 C.F.R. § 2.120, et seq. and 37 C.F.R. 37.122, et seq. The following are hereby designated and made part of the record of this proceeding:

1. The application file wrapper of the subject registration is already of record in this proceeding, and will be referenced by Petitioner pursuant to 37 C.F.R. 2.122(b).

2. Respondent's answers to the initial petition and the first amended petition are already of record in this proceeding, and will be referenced by Petitioner pursuant to TBMP §704.06.

3. Intellect's Exhibit 141. The application file wrapper of the Petitioner's trademark application for "INTELLECT", Serial No. 77/363,060, pursuant to 37 C.F.R. 2.122(e).

Petitioner's file wrapper, including without limitation the Office Action issued on November 17, 2008 included therein, is relevant to the harm Petitioner will suffer if the subject registration is

not cancelled. The application file wrapper is also relevant to the likelihood of confusion between Petitioner's mark and Respondent's registered mark, and, in particular, the factors of similarity of the marks and similarity of the services.

Respectfully submitted,

Date: January 27, 2011



William G. Giltinan
Carlton Fields, P.A.
P.O. Box 3239
Tampa, FL 33601-3239
(813) 223-7000
Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing Petitioner's First Notice of Reliance to Respondent's counsel at the following address:

Surjit P. Soni,
Ronald E. Perez, ron@sonilaw.com
The Soni Law Firm
35 N. Lake Ave. #720
Pasadena, CA 91101

via Federal Express, Overnight Delivery (Tracking No. 794362475167) and email on January 27, 2011.

Dated: January 27, 2011



William G. Giltinan

Intellect Technical Solutions v. Milena Soni
Cancellation No. 92050920
Intellect's Exhibit 141

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-01-25 15:24:28 ET

Serial Number: 77363060 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

INTELLECT

(words only): INTELLECT

Standard Character claim: Yes

Current Status: Suspension check completed. Application remains suspended.

Date of Status: 2011-01-04

Filing Date: 2008-01-03

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 105

Attorney Assigned:
BIBBINS ODESSA B

Current Location: L50 -TMEG Law Office 105

Date In Location: 2011-01-04

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Intellect Technical Solutions, Inc.

Address:

Intellect Technical Solutions, Inc.
Suite 235 15950 Bay Vista Drive

Intellect Technical Solutions v. Milena Soni
Cancellation No. 92050920
Intellect's Exhibit 141

Clearwater, FL 33760

United States

Legal Entity Type: Corporation

State or Country of Incorporation: Florida

GOODS AND/OR SERVICES

International Class: 035

Class Status: Active

Placement services, namely placing information technology professionals into information technology positions

Basis: 1(a)

First Use Date: 1997-12-31

First Use in Commerce Date: 1997-12-31

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2011-01-04 - Report Completed Suspension Check Case Still Suspended

2010-07-02 - Report Completed Suspension Check Case Still Suspended

2010-07-02 - Assigned To LIE

2009-12-20 - Notification Of Letter Of Suspension E-Mailed

2009-12-20 - LETTER OF SUSPENSION E-MAILED

2009-12-20 - Suspension Letter Written

2009-11-18 - LIE Checked Susp - To Atty For Action

2009-05-18 - Notification Of Non-Final Action E-Mailed

2009-05-18 - Correspondence E-Mailed

2009-05-18 - Suspension Letter Written

2009-05-18 - Teas/Email Correspondence Entered
2009-05-18 - Communication received from applicant
2009-05-18 - TEAS Request For Reconsideration Received
2008-11-17 - Notification Of Final Refusal Emailed
2008-11-17 - Final refusal e-mailed
2008-11-17 - Final Refusal Written
2008-10-02 - Teas/Email Correspondence Entered
2008-10-02 - Communication received from applicant
2008-10-02 - TEAS Response to Office Action Received
2008-08-18 - Attorney Review Completed
2008-07-10 - Divisional processing completed
2008-04-21 - Divisional request received
2008-04-25 - Unresponsive/Duplicate Paper Received
2008-04-24 - Assigned To LIE
2008-04-21 - FAX RECEIVED
2008-04-02 - Notification Of Non-Final Action E-Mailed
2008-04-02 - Non-final action e-mailed
2008-04-02 - Non-Final Action Written
2008-04-02 - Assigned To Examiner
2008-01-07 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

William G. Giltinan

Correspondent

WILLIAM G. GILTINAN
CARLTON FIELDS, P.A.
PO BOX 3239
TAMPA, FL 33601-3239

Phone Number: 813-229-4241

Fax Number: 813-229-4133

To: Intellect Technical Solutions, Inc. (trademarks@carltonfields.com)
Subject: U.S. TRADEMARK APPLICATION NO. 77363060 - INTELLECT - 50006/35697
Sent: 12/20/2009 1:28:11 PM
Sent As: ECOM105@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 77/363060

MARK: INTELLECT

77363060

CORRESPONDENT ADDRESS:

WILLIAM G. GILTINAN
CARLTON FIELDS, P.A.
PO BOX 3239
TAMPA, FL 33601-3239

GENERAL TRADEMARK INFORMATION:
<http://www.uspto.gov/main/trademarks.htm>

APPLICANT: Intellect Technical Solutions,
Inc.

**CORRESPONDENT'S REFERENCE/DOCKET
NO:**

50006/35697

CORRESPONDENT E-MAIL ADDRESS:

trademarks@carltonfields.com

NOTICE OF SUSPENSION

ISSUE/MAILING DATE: 12/20/2009

SUSPENSION PROCEDURE: This suspension notice serves to suspend action on the application for the reason(s) specified below. No response is needed. However, if you wish to respond to this notice, you should use the "Response to Letter of Suspension" form found at <http://teasroa.uspto.gov/rsi/rsi>. The Office will conduct periodic status checks to determine if suspension remains appropriate.

Action on this application is suspended pending the disposition of:

- Cancellation No(s). **92050920**

The proceeding(s) above pertains to one or more of the following: (1) a registration cited as a bar to applicant's registration under Section 2(d) of the Trademark Act, (2) a pending application(s) that could present a future bar to registration under Section 2(d) if it matured into a registration, and/or (3) the registrability of applicant's mark. 15 U.S.C. §1052. Therefore, action is suspended pending the final disposition of this proceeding(s). See 37 C.F.R. §2.83; TMEP §§716.02(a), (c) and (d), 1208 et seq. Any refusal(s) made under Section 2 is herein maintained.

USPTO
/Odessa Bibbins/
Attorney Advisor
Law Office 105
Tel: 571-272-9425
Fax:571-273-9425

STATUS CHECK: Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.

To: Intellect Technical Solutions, Inc. (trademarks@carltonfields.com)
Subject: U.S. TRADEMARK APPLICATION NO. 77363060 - INTELLECT - 50006/35697
Sent: 12/20/2009 1:28:14 PM
Sent As: ECOM105@USPTO.GOV
Attachments:

IMPORTANT NOTICE REGARDING YOUR TRADEMARK APPLICATION

Your trademark application (Serial No. 77363060) has been reviewed. The examining attorney assigned by the United States Patent and Trademark Office (“USPTO”) has written a letter (an “Office action”) on 12/20/2009 to which you must respond (*unless the Office letter specifically states that no response is required*). Please follow these steps:

1. Read the Office letter by clicking on this [link](http://tmportal.uspto.gov/external/portal/tow?DDA=Y&serial_number=77363060&doc_type=SUL&n)
http://tmportal.uspto.gov/external/portal/tow?DDA=Y&serial_number=77363060&doc_type=SUL&n
OR go to <http://tmportal.uspto.gov/external/portal/tow> and enter your serial number to access the Office letter. If you have difficulty accessing the Office letter, contact TDR@uspto.gov.

PLEASE NOTE: The Office letter may not be immediately available but will be viewable within 24 hours of this e-mail notification.

2. Contact the examining attorney who reviewed your application if you have any questions about the content of the Office letter (contact information appears at the end thereof).

3. Respond within 6 months, calculated from **12/20/2009** (*or sooner if specified in the Office letter*), using the Trademark Electronic Application System (TEAS) **Response to Office Action form**. If you have difficulty using TEAS, contact TEAS@uspto.gov.

ALERT:

Failure to file any required response by the applicable deadline will result in the ABANDONMENT (loss) of your application.

Do NOT hit “Reply” to this e-mail notification, or otherwise attempt to e-mail your response, as the USPTO does NOT accept e-mailed responses.

Trademark Snap Shot Amendment & Mail Processing Stylesheet
(Table presents the data on Amendment & Mail Processing Complete)

OVERVIEW

SERIAL NUMBER	77363060	FILING DATE	01/03/2008
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	SERVICE MARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	BIBBINS, ODESSA B	L.O. ASSIGNED	105

PUB INFORMATION

RUN DATE	05/19/2009		
PUB DATE	N/A		
STATUS	653-SUSPENSION LETTER - MAILED		
STATUS DATE	05/18/2009		
LITERAL MARK ELEMENT	INTELLECT		
DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPUB 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

FILING BASIS

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	YES	1 (a)	YES	1 (a)	NO
1 (b)	NO	1 (b)	NO	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

MARK DATA

STANDARD CHARACTER MARK	YES
LITERAL MARK ELEMENT	INTELLECT
MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

CURRENT OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	Intellect Technical Solutions, Inc.
ADDRESS	Suite 235 15950 Bay Vista Drive Clearwater, FL 33760
ENTITY	03-CORPORATION
CITIZENSHIP	Florida

GOODS AND SERVICES

INTERNATIONAL CLASS	035
DESCRIPTION TEXT	Placement services, namely placing information technology professionals into information technology positions

GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	035	FIRST USE DATE	12/31/1997	FIRST USE IN COMMERCE DATE	12/31/1997	CLASS STATUS	6-ACTIVE
---------------------	-----	----------------	------------	----------------------------	------------	--------------	----------

MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO
PARENT OF	

PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
05/18/2009	GNRN	O	NOTIFICATION OF NON-FINAL ACTION E-MAILED	023
05/18/2009	GRML	O	CORRESPONDENCE E-MAILED	022
05/18/2009	CNSL	R	SUSPENSION LETTER WRITTEN	021
05/18/2009	TEME	I	TEAS/EMAIL CORRESPONDENCE ENTERED	020
05/18/2009	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	019

05/18/2009	ERFR	I	TEAS REQUEST FOR RECONSIDERATION RECEIVED	018
11/17/2008	GNFN	O	NOTIFICATION OF FINAL REFUSAL EMAILED	017
11/17/2008	GNFR	O	FINAL REFUSAL E-MAILED	016
11/17/2008	CNFR	R	FINAL REFUSAL WRITTEN	015
10/02/2008	TEME	I	TEAS/EMAIL CORRESPONDENCE ENTERED	014
10/02/2008	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	013
10/02/2008	TROA	I	TEAS RESPONSE TO OFFICE ACTION RECEIVED	012
08/18/2008	ATRV	O	ATTORNEY REVIEW COMPLETED	011
07/10/2008	DPCC	D	DIVISIONAL PROCESSING COMPLETE	010
04/21/2008	DRRR	I	DIVISIONAL REQUEST RECEIVED	009
04/25/2008	UNPR	I	UNRESPONSIVE/DUPLICATE PAPER RECEIVED	008
04/24/2008	ALIE	A	ASSIGNED TO LIE	007
04/21/2008	FAXX	I	FAX RECEIVED	006
04/02/2008	GNRN	O	NOTIFICATION OF NON-FINAL ACTION E-MAILED	005
04/02/2008	GNRT	F	NON-FINAL ACTION E-MAILED	004
04/02/2008	CNRT	R	NON-FINAL ACTION WRITTEN	003
04/02/2008	DOCK	D	ASSIGNED TO EXAMINER	002
01/07/2008	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

CURRENT CORRESPONDENCE INFORMATION

ATTORNEY	William G. Giltinan
CORRESPONDENCE ADDRESS	WILLIAM G. GILTINAN CARLTON FIELDS, P.A. PO BOX 3239 TAMPA, FL 33601-3239
DOMESTIC REPRESENTATIVE	NONE

INTELLECT

NOTE TO THE FILE

SERIAL NUMBER: 77363060

DATE: 05/18/2009

NAME: obibbins

NOTE:

☐ Checked LEXIS/NEXIS

☐ Searched internet using [insert search engine or web site]

☐ Checked with Law Library re surname.

☐ Checked geographic significance.

☐ Checked with translations branch.

☐ Checked ID with ID/Class

☐ Checked ID with Senior Attorney/Managing Attorney

☒ Telephoned attorney/, William Giltinan leaving message re: suspension of application

☐ Telephoned attorney/applicant, application was signed on ☐

☐ Personal interview conducted with attorney/applicant re ☐

☐ Attorney/applicant called to discuss ☐

- ☐ Bulky specimens with examiner.
- ☐ Acronym website searched.
- ☐ Changed Tradeups to add. ____
- ☐ Changed Tradeups to delete. ____
- ☐ Changed Tradeups to add Examiner's Amendment.
- ☐ Letter of Protest Granted
- ☐ OTHER (insert reason for Note)

To: Intellect Technical Solutions, Inc. (trademarks@carltonfields.com)
Subject: U.S. TRADEMARK APPLICATION NO. 77363060 - INTELLECT - 50006/35697
Sent: 5/18/2009 7:06:59 PM
Sent As: ECOM105@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 77/363060

MARK: INTELLECT

77363060

CORRESPONDENT ADDRESS:

WILLIAM G. GILTINAN
CARLTON FIELDS, P.A.
PO BOX 3239
TAMPA, FL 33601-3239

GENERAL TRADEMARK INFORMATION:
<http://www.uspto.gov/main/trademarks.htm>

APPLICANT: Intellect Technical Solutions,
Inc.

**CORRESPONDENT'S REFERENCE/DOCKET
NO:**

50006/35697

CORRESPONDENT E-MAIL ADDRESS:

trademarks@carltonfields.com

NOTICE OF SUSPENSION

ISSUE/MAILING DATE: 5/18/2009

This letter responds to the Applicant's communication filed on May 18, 2009. Applicant in response to the 2(D) Likelihood of Confusion FINAL Refusal issued November 17, 2008, requested suspension of this application pending the outcome of Cancellation No. 92050920, which is acceptable and entered in the record.

SUSPENSION PROCEDURE: This suspension notice serves to suspend action on the application for the reason(s) specified below. No response is needed. However, if you wish to respond to this notice, you

should use the "Response to Letter of Suspension" form found at <http://teasroa.uspto.gov/rsi/rsi>. The Office will conduct periodic status checks to determine if suspension remains appropriate.

Action on this application is suspended pending the disposition of:

- Cancellation No(s). **92050920**

The proceeding(s) above pertains to one or more of the following: (1) a registration cited as a bar to applicant's registration under Section 2(d) of the Trademark Act, (2) a pending application(s) that could present a future bar to registration under Section 2(d) if it matured into a registration, and/or (3) the registrability of applicant's mark. 15 U.S.C. §1052. Therefore, action is suspended pending the final disposition of this proceeding(s). See 37 C.F.R. §2.83; TMEP §§716.02(a), (c) and (d), 1208 et seq. Any refusal(s) made under Section 2 is herein maintained.

USPTO
/Odessa Bibbins/
Attorney Advisor
Law Office 105
Tel: 571-272-9425
Fax: 571-273-9425

STATUS CHECK: Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.

To: Intellect Technical Solutions, Inc. (trademarks@carltonfields.com)
Subject: U.S. TRADEMARK APPLICATION NO. 77363060 - INTELLECT - 50006/35697
Sent: 5/18/2009 7:07:03 PM
Sent As: ECOM105@USPTO.GOV
Attachments:

IMPORTANT NOTICE
USPTO OFFICE ACTION HAS ISSUED ON 5/18/2009 FOR
APPLICATION SERIAL NO. 77363060

Please follow the instructions below to continue the prosecution of your application:

VIEW OFFICE ACTION: Click on this link
http://tportal.uspto.gov/external/portal/tow?DDA=Y&serial_number=77363060&doc_type=SUL&n
(or copy and paste this URL into the address field of your browser), or visit
<http://tportal.uspto.gov/external/portal/tow> and enter the application serial number to access the Office action.

PLEASE NOTE: The Office action may not be immediately available but will be viewable within 24 hours of this notification.

RESPONSE MAY BE REQUIRED: You should carefully review the Office action to determine (1) if a response is required; (2) how to respond; and (3) the applicable response time period. Your response deadline will be calculated from 5/18/2009.

Do NOT hit "Reply" to this e-mail notification, or otherwise attempt to e-mail your response, as the USPTO does NOT accept e-mailed responses. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System response form at <http://www.uspto.gov/teas/eTEASpageD.htm>.

HELP: For *technical* assistance in accessing the Office action, please e-mail TDR@uspto.gov. Please contact the assigned examining attorney with questions about the Office action.

WARNING

- 1. The USPTO will NOT send a separate e-mail with the Office action attached.**
- 2. Failure to file any required response by the applicable deadline will result in the**

ABANDONMENT of your application.

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77363060
LAW OFFICE ASSIGNED	LAW OFFICE 105
MARK SECTION (no change)	
ARGUMENT(S)	
<p>The Applicant hereby respectfully requests that the Office suspend this application pending the outcome of cancellation proceeding 92050920.</p> <p>The Examining Attorney has refused the present application under section 2(d), citing registration 3009990 for ENTELLECT. The Applicant previously amended the description of services and presented arguments in favor of registration. The Examining Attorney then issued a final action, reasserting the same rejection and refusing registration.</p> <p>On May 7, 2009, the Applicant filed cancellation number 3009990 with the TTAB seeking cancellation of the registration cited by the Examining Attorney. On that same day, the Applicant's attorney spoke with the Examining Attorney and notified her of the cancellation proceeding and requested that the present application be suspended pending the outcome of that cancellation. As of the date of this filing, no suspension notice has been entered in the file. Therefore, the Applicant hereby responds to the outstanding Office Action and requests that the application be suspended pending the outcome of the above-referenced cancellation proceeding.</p>	
SIGNATURE SECTION	
RESPONSE SIGNATURE	/William Giltinan/
SIGNATORY'S NAME	William Giltinan
SIGNATORY'S POSITION	Attorney of Record
DATE SIGNED	05/18/2009
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	NO
FILING INFORMATION SECTION	
SUBMIT DATE	Mon May 18 15:26:12 EDT 2009

TEAS STAMP

USPTO/RFR-66.193.165.130-
20090518152612539594-7736
3060-430a4d92c6ce1b8dbdf8
e4f33dde4c43a-N/A-N/A-200
90518144934369981

PTO Form (Rev 4/2000)
OMB No. 0651-.... (Exp. 08/31/2004)

**Request for Reconsideration after Final Action
To the Commissioner for Trademarks:**

Application serial no. **77363060** has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

The Applicant hereby respectfully requests that the Office suspend this application pending the outcome of cancellation proceeding 92050920.

The Examining Attorney has refused the present application under section 2(d), citing registration 3009990 for ENTELLECT. The Applicant previously amended the description of services and presented arguments in favor of registration. The Examining Attorney then issued a final action, reasserting the same rejection and refusing registration.

On May 7, 2009, the Applicant filed cancellation number 3009990 with the TTAB seeking cancellation of the registration cited by the Examining Attorney. On that same day, the Applicant's attorney spoke with the Examining Attorney and notified her of the cancellation proceeding and requested that the present application be suspended pending the outcome of that cancellation. As of the date of this filing, no suspension notice has been entered in the file. Therefore, the Applicant hereby responds to the outstanding Office Action and requests that the application be suspended pending the outcome of the above-referenced cancellation proceeding.

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /William Giltinan/ Date: 05/18/2009

Signatory's Name: William Giltinan

Signatory's Position: Attorney of Record

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is not filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 77363060

Internet Transmission Date: Mon May 18 15:26:12 EDT 2009

TEAS Stamp: USPTO/RFR-66.193.165.130-200905181526125

39594-77363060-430a4d92c6ce1b8dbdf8e4f33

dde4c43a-N/A-N/A-20090518144934369981

To: Intellect Technical Solutions, Inc. (trademarks@carltonfields.com)
Subject: TRADEMARK APPLICATION NO. 77363060 - INTELLECT - 50006/35697
Sent: 11/17/2008 1:04:23 PM
Sent As: ECOM105@USPTO.GOV
Attachments: Attachment - 1
Attachment - 2
Attachment - 3
Attachment - 4
Attachment - 5
Attachment - 6
Attachment - 7
Attachment - 8
Attachment - 9
Attachment - 10

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 77/363060

MARK: INTELLECT

77363060

CORRESPONDENT ADDRESS:

WILLIAM G. GILTINAN
CARLTON FIELDS, P.A.
PO BOX 3239
TAMPA, FL 33601-3239

RESPOND TO THIS ACTION:

<http://www.uspto.gov/teas/eTEASpageD.htm>

GENERAL TRADEMARK INFORMATION:

<http://www.uspto.gov/main/trademarks.htm>

APPLICANT: Intellect Technical Solutions,
Inc.

**CORRESPONDENT'S REFERENCE/DOCKET
NO:**

50006/35697

CORRESPONDENT E-MAIL ADDRESS:

trademarks@carltonfields.com

OFFICE ACTION

TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE ISSUE/MAILING DATE.

ISSUE/MAILING DATE: 11/17/2008

THIS IS A FINAL ACTION.

This letter responds to the Applicant's communication filed on October 2, 2008. Applicant submitted an amended identification of services for International Class 035 which is acceptable and entered in the record. In response to the 2(d) Likelihood of Confusion Refusal citing U.S. Registration No. 3009990, applicant submitted an amended identification of services arguing that the amended identification abated the 2(d) Refusal. The trademark examining attorney has carefully read applicant's arguments, but does not find them persuasive.

For the reasons set forth below, the refusal under Trademark Act Section 2(d) is now made FINAL with respect to U.S. Registration No. 3009990. See 15 U.S.C. §1052(d); 37 C.F.R. §2.64(a).

2(D) Likelihood of Confusion Refusal Maintained and Made FINAL

This Refusal applies to the employment recruiting services only in International Class 035 in the cited U.S. Registration.

In the Office Action issued April 2, 2008, the trademark examining attorney refused registration of the applied-for standard character mark INTELLECT, because of a likelihood of confusion with the typed mark, ENTELLECT, in U.S. Registration No. 3009990, under Trademark Act Section 2(d), 15 U.S.C. §1052(d); TMEP §§1207.01 *et seq.* *Registration previously provided.*

Applicant applied to register, INTELLECT for the following services as amended, *placement services, namely placing information technology professionals into information technology positions*, in International Class 035

The cited registered mark, ENTELLECT is used with services in International Classes 041 and 044, and specifically for the *employment recruiting services* in International Class 035, - **employment** counseling and **recruiting**, business consultation, business management and consultation, Business management consultation, Personnel management consultation, Psychological testing for the selection of personnel. Trademark Act Section 2(d) bars registration of an applied-for mark that so resembles a registered mark that a potential consumer would be confused or mistaken or deceived as to the source of the goods and/or services of the applicant and registrant. See 15 U.S.C. § 1052(d). The Court in *In re E. I. Du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973), listed the principal factors to be considered in determining whether there is a likelihood of confusion under Section 2(d). Any one of the factors listed may be dominant in any given case, depending upon the evidence of record. *In re Dixie Restaurants, Inc.*, 105 F.3d 1405, 41 USPQ2d 1531, 1533 (Fed. Cir. 1997).

Taking into account the relevant *du Pont* factors, a likelihood of confusion determination in this case involves a two-part analysis. The marks are compared for similarities in their appearance, sound, connotation and commercial impression. TMEP §§1207.01, 1207.01(b). The goods and/or services are compared to determine whether they are similar or commercially related or travel in the same trade

channels. See *Herbko Int'l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1164-65, 64 USPQ2d 1375, 1380 (Fed. Cir. 2002); *Han Beauty, Inc. v. Alberto-Culver Co.*, 236 F.3d 1333, 1336, 57 USPQ2d 1557, 1559 (Fed. Cir. 2001); TMEP §§1207.01, 1207.01(a)(vi).

In this case, the following factors are the most relevant: similarity of the marks, similarity of the services. See *In re Opus One, Inc.*, 60 USPQ2d 1812 (TTAB 2001); *In re Dakin's Miniatures Inc.*, 59 USPQ2d 1593 (TTAB 1999); *In re Azteca Restaurant Enterprises, Inc.*, 50 USPQ2d 1209 (TTAB 1999); *In re L.C. Licensing Inc.*, 49 USPQ2d 1379 (TTAB 1998); TMEP §§1207.01 *et seq.*

Comparison of the Marks

The applied-for mark, INTELLECT is identical in sound and similar in appearance to the cited registered mark, ENTELLECT. Similarity in sound alone may be sufficient to support a finding of likelihood of confusion. *RE/MAX of America, Inc. v. Realty Mart, Inc.*, 207 USPQ 960, 964 (TTAB 1980); *Molenaar, Inc. v. Happy Toys Inc.*, 188 USPQ 469 (TTAB 1975); *In re Cresco Mfg. Co.*, 138 USPQ 401 (TTAB 1963); TMEP §1207.01(b)(iv). While applicant's mark begins with the letter "I" and registrant's with the letter E, these minor differences do not obviate the similarities between the mark, because the remaining identical letters in both marks, "NTELLECT", are identical in sound. Furthermore, when applicant's mark is compared to a registered mark, "the points of similarity are of greater importance than the points of difference." *Esso Standard Oil Co. v. Sun Oil Co.*, 229 F.2d 37, 40, 108 USPQ 161 (D.C. Cir. 1956) (internal citation omitted).

Therefore, the marks INTELLECT and ENTELLECT, which are identical in sound and similar in appearance, create a similar commercial impression.

Comparison of the Services in International Class 035

Applicant's *placement services, namely placing information technology professionals into information technology positions* are related to registrant's *recruitment services*, and they may be found in the same channels of trade. See *Exhibits 4, and 5*. Since the registrant's identification of employment recruitment is very broad, it is presumed that the registration encompasses all services of the type described, including those in the applicant's more specific identification, that they move in all normal channels of trade and that they are available to all potential customers. *In re Elbaum*, 211 USPQ 639, 640 (TTAB 1981); *In re Optica International*, 196 USPQ 775 (TTAB 1977); TMEP §1207.01(a)(iii).

Attached are copies of printouts from the USPTO X-Search database, which show third-party registrations of marks used in connection with the same or similar services as those of applicant and registrant in this case. These printouts have probative value to the extent that it serves to suggest that the services listed therein, namely *employment recruitment and placement services* are of a kind that may emanate from a single source. *In re Infinity Broadcasting Corp. of Dallas*, 60 USPQ2d 1214, 1218 (TTAB 2001), citing *In re Albert Trostel & Sons Co.*, 29 USPQ2d 1783, 1785-86 (TTAB 1993); and *In re Mucky Duck Mustard Co., Inc.*, 6 USPQ2d 1467, 1470 at n.6 (TTAB 1988). See *Exhibits 1, 2, and 3*

In further support of the relatedness of applicant's and registrant's services, the trademark examining attorney has attached articles from a search of the Internet on GOOGLE, where placement services for IT positions and employment recruitment services are provided by the same vendor and may be found in the same channels of trade. See *Exhibits 4 and 5* Evidence of relatedness might include advertisements showing the relevant services are advertised together by the vendor. TMEP 1207.01(a)(vi)

In this case, the applicant's and registrant's marks are identical in sound, highly similar in appearance, and their services related, such that if encountered by consumers, it may create the incorrect assumption that they originate from the same source, and thus likely to cause confusion. Any doubt regarding a likelihood

of confusion is resolved in favor of the prior registrant. *In re Hyper Shoppes (Ohio), Inc.*, 837 F.2d 463, 6 USPQ2d 1025 (Fed. Cir. 1988); TMEP §§1207.01(d)(i). Therefore, registration is again refused.

Proper Response to Final Action

If applicant does not respond within six months of the mailing date of this final Office action, the application will be abandoned. 15 U.S.C. §1062(b); 37 C.F.R. §2.65(a). Applicant may respond to this final Office action by:

- (1) Submitting a response that fully satisfies all outstanding requirements, if feasible; and/or
- (2) Filing an appeal to the Trademark Trial and Appeal Board, with an appeal fee of \$100 per class.

37 C.F.R. §§2.6(a)(18), 2.64(a); TBMP ch. 1200; TMEP §714.04.

In certain rare circumstances, a petition to the Director may be filed pursuant to 37 C.F.R. §2.63(b)(2) to review a final Office action that is limited to procedural issues. 37 C.F.R. §2.64(a); TMEP §714.04; *see* 37 C.F.R. §2.146(b); TBMP §1201.05; TMEP §1704 (explaining petitionable matters). The petition fee is \$100. 37 C.F.R. §2.6(a)(15).

If the Applicant has questions about its application or needs assistance in responding to this Office action, please telephone the assigned Trademark Examining Attorney directly at the number below.

USPTO
/Odessa Bibbins/
Attorney Advisor
Law Office 105
Tel: 571-272-9425
Fax: 571-273-9425

RESPOND TO THIS ACTION: Applicant should file a response to this Office action online using the form at <http://www.uspto.gov/teas/eTEASpageD.htm>, waiting 48-72 hours if applicant received notification of the Office action via e-mail. For *technical* assistance with the form, please e-mail TEAS@uspto.gov. For questions about the Office action itself, please contact the assigned examining attorney. **Do not respond to this Office action by e-mail; the USPTO does not accept e-mailed responses.**

If responding by paper mail, please include the following information: the application serial number, the mark, the filing date and the name, title/position, telephone number and e-mail address of the person signing the response. Please use the following address: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

STATUS CHECK: Check the status of the application at least once every six months from the initial

filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.

Print: Nov 17, 2008

76007243

DESIGN MARK

Serial Number

76007243

Status

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

Word Mark

ABBOTT RESOURCE GROUP

Standard Character Mark

No

Registration Number

2603488

Date Registered

2002/08/06

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

Abbott Resource Group, Inc. CORPORATION CALIFORNIA 2090 N. Tustin
Avenue Suite 250 Santa Ana CALIFORNIA 92705

Goods/Services

Class Status -- ACTIVE. IC 035. US 100 101 102. G & S: employment
counseling services; employment recruiting services; employment
placement services; consulting services in the field of employment;
and payroll preparation services. First Use: 1997/06/01. First Use
In Commerce: 1997/06/01.

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "RESOURCE GROUP" APART
FROM THE MARK AS SHOWN.

Filing Date

2000/03/22

Examining Attorney

STIGLITZ, SUSAN

Attorney of Record

Print: Nov 17, 2008

76007243

Jill M. Pietrini

ABBOTT RESOURCE GROUP

Print: Nov 17, 2008

76055496

DESIGN MARK

Serial Number

76055496

Status

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

Word Mark

PACIOLI

Standard Character Mark

No

Registration Number

2446568

Date Registered

2001/04/24

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

MPS GROUP, INC. CORPORATION FLORIDA 1 INDEPENDENT DR. JACKSONVILLE
FLORIDA 32202

Goods/Services

Class Status -- ACTIVE. IC 035. US 100 101 102. G & S: employment
agencies, employment counseling, employment recruiting and employment
placement services. First Use: 1996/01/01. First Use In Commerce:
1996/01/01.

Filing Date

2000/05/24

Examining Attorney

BUTLER, MIDGE

Attorney of Record

ERIC D PAULSRUD

PACIOLI

Print: Nov 17, 2008

77380518

DESIGN MARK

Serial Number

77380518

Status

REGISTERED

Word Mark

SC SELECT

Standard Character Mark

No

Registration Number

3495443

Date Registered

2008/09/02

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner

SC Select, LLC LIMITED LIABILITY COMPANY TENNESSEE 611 Commerce Street, Suite 2927 Nashville TENNESSEE 37203

Goods/Services

Class Status -- ACTIVE. IC 035. US 100 101 102. G & S: Business leadership development; Business management consultation in the field of executive and leadership development; Consultancy of personnel recruitment; Employment counseling and recruiting; Employment hiring, recruiting, placement, staffing and career networking services; Employment recruiting consultation; Executive search and placement services; Management and business consulting services in the field of training and recruitment; Personnel placement and recruitment. First Use: 2007/09/01. First Use In Commerce: 2007/09/01.

Description of Mark

The mark consists of Large capital "SC" in blue letters with a space and a smaller capital "SELECT" in silver letters with a single blue line above "ELECT" and a double blue line beneath "SC SELECT".

Colors Claimed

The color(s) Blue and silver. is/are claimed as a feature of the mark.

Print: Nov 17, 2008

77380518

Filing Date

2008/01/25

Examining Attorney

MCCRAY, RENEE

Attorney of Record

P. Gray Finney

SCSELECT

Computer and IT Recruitment - Carroll Technology Services - Microsoft Internet Explorer provided by ISP10


File Edit View Favorites Tools Help

Back Forward Stop Search Favorites

Address http://www.carrolltech.net/aboutus.asp

Go Links SnagIt

Carroll Technology Services



Home About Us Employer Services Candidate Services Contact Us

About Carroll Technology Services

Carroll Technology Services Overview

- Over 30 Years combined direct experience in technology recruiting
- Impact player specialists
- Placed over 1,000 highly qualified technical candidates
- Filled even the most challenging positions
- Online database of qualified candidates - [Search Now](#)

Our founders, Jed Davis and Bob Small have over 30 years combined search experience in the regional technology marketplace.

Jed Davis has owned a contingency search firm (AI Squared) and built the internal recruiting capabilities for RPM Consulting / eB Networks, Netplex Solutions and most recently served as Chief Human Capitalist for TidePoint Corporation.

View my profile on [LinkedIn](#)

Bob Small is best known as the owner and highest billing recruiter for Career Network Services (CNSI), a high technology recruiting and consulting firm subsequently sold to IQ Solutions.

We're anxious to become one of the secrets of your business' success. Please contact us for an in-depth discussion of your recruiting and hiring requirements

"Although we employed 5 or 6 different candidate sourcing options, if I could pick only one to work with, I would without hesitation choose Carroll Technology Services."

Matt E. - Placed Candidate and Hiring Manager

"Your attention to detail and rigorous focus on the pre-screen has saved my team countless hours that might have otherwise been spent sifting the B and C players from the A's."

Joel S. - Sr. VP

"If I were to describe my experience with Carroll Technology Services, in a word, it would be awesome. I have accepted a position that aligns with my career goals and I have learned so many things along the way."

Diana H - Placed Candidate

Beacon Hill Divisions - Beacon Hill Technologies - Microsoft Internet Explorer provided by USPTO

File Edit View Favorites Tools Help

Back Forward Stop Home Search Favorites

Address http://www.beaconhillstaffing.com/matriarch/MultiPiecePage.asp_Q_PageID_E_63_A_PageName_E_DivTechnologies Go Links SnagIt

Home Contact Us FAQs

BH BEACON HILL STAFFING GROUP

Search

About Us Specialties Find a Job Submit Resume For Employers For Candidates For Employees Locations

SEARCH FOR A JOB

Keyword(s)

Choose Job Type

Choose Location

Choose Specialty

Advanced Search

Specialties

- Administrative >
- Marketing >
- Accounting & Finance >
- Funds & Investments >
- Public Accounting >
- Banking >
- Human Resources >
- Legal - Support >
- Legal - Paralegal >
- Legal - Attorney >
- Technology >**
- Government Services >
- Manage Timesheets >

BH Beacon Hill Technologies

Beacon Hill Technologies, Beacon Hill Staffing Group's technology specialty division, is a national IT staffing organization, operating across industries, that provides contract, direct (permanent), consulting and project management services to top companies and their IT departments.

From staff augmentation and project/business specific solutions to direct (permanent) placement services, Beacon Hill Technologies' dedicated team of recruiting and staffing experts consistently delivers quality IT professionals, including those with active security clearances, covering all the latest technologies, on a time-sensitive basis.

Beacon Hill Technologies places IT contractors in all 50 states by seamlessly coordinating recruiting resources in local and regional markets with Beacon Hill Technologies National Recruiting & Delivery, a dedicated national recruiting team that focuses exclusively on national accounts, supporting regional recruiting operations and delivering contractors to markets where Beacon Hill does not have physical office locations.

Whether start-ups or the Fortune 500, the public or private sector, Beacon Hill Technologies matches world class talent with exceptional opportunities keeping all involved way ahead of the curve in the dynamic IT marketplace.

Offerings include:

- Application & Systems Architecture
- Business Systems Analysis
- Data Architecture

Featured Jobs

BH Technologies:

Help Desk Support - 6 Month, Contract to Hire - (Pittsburgh) Our Pittsburgh team is currently assisting our client in hiring a Help Desk Support Technician to join them on a contract to hire basis. >>

Network Engineer - Contract to Hire - (Atlanta) Our client is a start-up company with a focus on Network Security, located in Atlanta, GA. They are currently seeking a Network >>

Desktop Support Specialist - Active Directory - (Cleveland) Our client is looking for a Desktop Support specialist with Active Directory experience for a contract to hire opportunity that will start ASAP. >>

Featured Placements

11.14.08
A leading Pharmaceutical firm hires a BHS Senior IT Contractor to provide

To: Intellect Technical Solutions, Inc. (trademarks@carltonfields.com)
Subject: TRADEMARK APPLICATION NO. 77363060 - INTELLECT - 50006/35697
Sent: 11/17/2008 1:04:24 PM
Sent As: ECOM105@USPTO.GOV
Attachments:

IMPORTANT NOTICE
USPTO OFFICE ACTION HAS ISSUED ON 11/17/2008 FOR
APPLICATION SERIAL NO. 77363060

Please follow the instructions below to continue the prosecution of your application:

VIEW OFFICE ACTION: Click on this link
http://tmpportal.uspto.gov/external/portal/tow?DDA=Y&serial_number=77363060&doc_type=OOA&
(or copy and paste this URL into the address field of your browser), or visit
<http://tmpportal.uspto.gov/external/portal/tow> and enter the application serial number to access the Office action.

PLEASE NOTE: The Office action may not be immediately available but will be viewable within 24 hours of this notification.

RESPONSE MAY BE REQUIRED: You should carefully review the Office action to determine (1) if a response is required; (2) how to respond; and (3) the applicable response time period. Your response deadline will be calculated from 11/17/2008.

Do NOT hit "Reply" to this e-mail notification, or otherwise attempt to e-mail your response, as the USPTO does NOT accept e-mailed responses. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System response form at <http://www.uspto.gov/teas/eTEASpageD.htm>.

HELP: For *technical* assistance in accessing the Office action, please e-mail TDR@uspto.gov. Please contact the assigned examining attorney with questions about the Office action.

WARNING

- 1. The USPTO will NOT send a separate e-mail with the Office action attached.**
- 2. Failure to file any required response by the applicable deadline will result in the**

ABANDONMENT of your application.

Trademark Snap Shot Amendment & Mail Processing Stylesheet

(Table presents the data on Amendment & Mail Processing Complete)

OVERVIEW

SERIAL NUMBER	77363060	FILING DATE	01/03/2008
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	SERVICE MARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	BIBBINS, ODESSA B	L.O. ASSIGNED	105

PUB INFORMATION

RUN DATE	10/03/2008		
PUB DATE	N/A		
STATUS	661-RESPONSE AFTER NON-FINAL-ACTION-ENTERED		
STATUS DATE	10/02/2008		
LITERAL MARK ELEMENT	INTELLECT		
DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPUBLIC 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

FILING BASIS

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	YES	1 (a)	YES	1 (a)	NO
1 (b)	NO	1 (b)	NO	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

MARK DATA

STANDARD CHARACTER MARK	YES
LITERAL MARK ELEMENT	INTELLECT
MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

CURRENT OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	Intellect Technical Solutions, Inc.
ADDRESS	Suite 235 15950 Bay Vista Drive Clearwater, FL 33760
ENTITY	03-CORPORATION
CITIZENSHIP	Florida

GOODS AND SERVICES

INTERNATIONAL CLASS	035
DESCRIPTION TEXT	Placement services, namely placing information technology professionals into information technology positions

GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	035	FIRST USE DATE	12/31/1997	FIRST USE IN COMMERCE DATE	12/31/1997	CLASS STATUS	6-ACTIVE
---------------------	-----	----------------	------------	----------------------------	------------	--------------	----------

MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO
PARENT OF	

PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
10/02/2008	TEME	I	TEAS/EMAIL CORRESPONDENCE ENTERED	014
10/02/2008	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	013
10/02/2008	TROA	I	TEAS RESPONSE TO OFFICE ACTION RECEIVED	012
08/18/2008	ATRV	O	ATTORNEY REVIEW COMPLETED	011
07/10/2008	DPCC	D	DIVISIONAL PROCESSING COMPLETE	010

04/21/2008	DRRR	I	DIVISIONAL REQUEST RECEIVED	009
04/25/2008	UNPR	I	UNRESPONSIVE/DUPLICATE PAPER RECEIVED	008
04/24/2008	ALIE	A	ASSIGNED TO LIE	007
04/21/2008	FAXX	I	FAX RECEIVED	006
04/02/2008	GNRN	O	NOTIFICATION OF NON-FINAL ACTION E-MAILED	005
04/02/2008	GNRT	F	NON-FINAL ACTION E-MAILED	004
04/02/2008	CNRT	R	NON-FINAL ACTION WRITTEN	003
04/02/2008	DOCK	D	ASSIGNED TO EXAMINER	002
01/07/2008	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

CURRENT CORRESPONDENCE INFORMATION

ATTORNEY	William G. Giltinan
CORRESPONDENCE ADDRESS	WILLIAM G. GILTINAN CARLTON FIELDS, P.A. PO BOX 3239 TAMPA, FL 33601-3239
DOMESTIC REPRESENTATIVE	NONE

INTELLECT

Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77363060
LAW OFFICE ASSIGNED	LAW OFFICE 105
MARK SECTION (no change)	
ARGUMENT(S)	
<p>The Examining Attorney has argued that a likelihood of confusion exists between Applicant's mark and registration 3009990 for ENTELLECT. Applicant hereby amends its application and respectfully argues that there is no likelihood of confusion.</p> <p>The '990 application is, in part, for use of the mark in connection with "employment counseling and recruiting services." Applicant has amended its application to remove any reference to "recruiting" and nowhere mentions "counseling." Additionally, Applicant's mark is for use with placement services restricted to the information technology professionals. Applicant respectfully argues, therefore, that the relevant market for Applicant's services is different than the market impacted by the '990 application. Furthermore, because information technology professionals, and those seeking to place such positions, are by definition highly trained and educated, they are likely to exercise above-ordinary care when selecting service providers. The exercise of such care, together with the differences in the services, the differences in the impacted marketplaces, and the differences in the marks all serve to alleviate any likelihood of confusion. Accordingly, Applicant respectfully requests that the Examining Attorney allow the application as amended to pass to publication.</p>	
GOODS AND/OR SERVICES SECTION (current)	
INTERNATIONAL CLASS	035
DESCRIPTION	
Employment hiring, recruiting, placement, staffing and career networking services, namely, recruiting and placing information technology professionals and staffing application development and information technology infrastructure positions	
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 12/31/1997
FIRST USE IN COMMERCE DATE	At least as early as 12/31/1997
GOODS AND/OR SERVICES SECTION (proposed)	
INTERNATIONAL CLASS	035
DESCRIPTION	

Placement services, namely placing information technology professionals into information technology positions

FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 12/31/1997
FIRST USE IN COMMERCE DATE	At least as early as 12/31/1997
SIGNATURE SECTION	
DECLARATION SIGNATURE	The filing Attorney has elected not to submit the signed declaration, believing no supporting declaration is required under the <i>Trademark Rules of Practice</i> .
RESPONSE SIGNATURE	/William Giltinan/
SIGNATORY'S NAME	William Giltinan
SIGNATORY'S POSITION	Attorney of record
DATE SIGNED	10/02/2008
AUTHORIZED SIGNATORY	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Thu Oct 02 14:50:37 EDT 2008
TEAS STAMP	USPTO/ROA-66.193.165.130- 20081002145037108428-7736 3060-430ecd75ee7b2b575d17 c8ae3d636acfa-N/A-N/A-200 81002103330859680

Response to Office Action
To the Commissioner for Trademarks:

Application serial no. **77363060** has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

The Examining Attorney has argued that a likelihood of confusion exists between Applicant's mark and registration 3009990 for ENTELLECT. Applicant hereby amends its application and respectfully argues that there is no likelihood

of confusion.

The '990 application is, in part, for use of the mark in connection with "employment counseling and recruiting services." Applicant has amended its application to remove any reference to "recruiting" and nowhere mentions "counseling." Additionally, Applicant's mark is for use with placement services restricted to the information technology professionals. Applicant respectfully argues, therefore, that the relevant market for Applicant's services is different than the market impacted by the '990 application. Furthermore, because information technology professionals, and those seeking to place such positions, are by definition highly trained and educated, they are likely to exercise above-ordinary care when selecting service providers. The exercise of such care, together with the differences in the services, the differences in the impacted marketplaces, and the differences in the marks all serve to alleviate any likelihood of confusion. Accordingly, Applicant respectfully requests that the Examining Attorney allow the application as amended to pass to publication.

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 035 for Employment hiring, recruiting, placement, staffing and career networking services, namely, recruiting and placing information technology professionals and staffing application development and information technology infrastructure positions

Original Filing Basis:

Filing Basis: Section 1(a), Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 12/31/1997 and first used in commerce at least as early as 12/31/1997, and is now in use in such commerce.

Proposed: Class 035 for Placement services, namely placing information technology professionals into information technology positions

Filing Basis: Section 1(a), Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 12/31/1997 and first used in commerce at least as early as 12/31/1997, and is now in use in such commerce.

SIGNATURE(S)

Declaration Signature

I hereby elect to bypass the submission of a signed declaration, because I believe a declaration is not required by the rules of practice. I understand that the examining attorney could still, upon later review, require a signed declaration.

Response Signature

Signature: /William Giltinan/ Date: 10/02/2008

Signatory's Name: William Giltinan

Signatory's Position: Attorney of record

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power

of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

Serial Number: 77363060

Internet Transmission Date: Thu Oct 02 14:50:37 EDT 2008

TEAS Stamp: USPTO/ROA-66.193.165.130-200810021450371

08428-77363060-430ecd75ee7b2b575d17c8ae3

d636acfa-N/A-N/A-20081002103330859680

NOTE TO THE FILE

SERIAL NUMBER: 77363060

DATE: 08/14/2008

NAME: obibbins

NOTE:

☐ Checked LEXIS/NEXIS

☐ Searched internet using [insert search engine or web site]

☐ Checked with Law Library re surname.

☐ Checked geographic significance.

☐ Checked with translations branch.

☐ Checked ID with ID/Class

☐ Checked ID with Senior Attorney/Managing Attorney

☐ Telephoned attorney/applicant leaving message re: _____

☐ Telephoned attorney/applicant, application was signed on _____

☒ Personal interview conducted with attorney/Giltinan, re Parent app for IC 035 returned to ARD Docket.

☐ Attorney/applicant called to discuss _____

☐ Bulky specimens with examiner.

- ☐ Acronym website searched.
- ☐ Changed Tradeups to add. ☐
- ☐ Changed Tradeups to delete. ☐
- ☐ Changed Tradeups to add Examiner's Amendment.
- ☐ Letter of Protest Granted
- ☐ OTHER (insert reason for Note)

To: Intellect Technical Solutions, Inc. (trademarks@carltonfields.com)
Subject: TRADEMARK APPLICATION NO. 77363060 - INTELLECT - 50006/35697
Sent: 7/10/08 3:24:07 PM
Sent As: EComITU
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 77/363060

APPLICANT: Intellect Technical Solutions, Inc.

77363060

CORRESPONDENT ADDRESS:

WILLIAM G. GILTINAN
CARLTON FIELDS, P.A.
PO BOX 3239
TAMPA, FL 33601-3239

July 10, 2008

RETURN ADDRESS:

Commissioner for Trademarks
P. O. Box 1451
Alexandria, VA 22313-1451

MARK: INTELLECT

CORRESPONDENT'S REFERENCE/DOCKET NO: 50006/35697

Please provide in your correspondence:

CORRESPONDENT EMAIL ADDRESS:
trademarks@carltonfields.com

1. Filing date, serial number, mark and applicant's name.
2. Date of this Notice.
3. Attn: Intent to Use Unit
4. Your telephone number and e-mail address.

NOTICE OF DIVISIONAL REQUEST COMPLETED

Serial Number 77363060

DIVISIONAL COMPLETED/EXAMINER OFFICE ACTION REMAINS OUTSTANDING

The request to divide application serial no. 77363060, filed on April 21, 2008, has been processed as follows:

- (1) Parent (original) application serial no. 77363060 contains the following goods and/or

services/class(es): 35- Employment hiring, recruiting, placement, staffing and career networking services, namely, recruiting and placing information technology professionals and staffing application development and information technology infrastructure positions.

(2) Child application serial no. 77975757 contains the following goods and/or services/class(es):
42- Consulting services in the field of computer-based information systems for businesses, namely, providing software development, quality assurance, project management and infrastructure consulting services.

37 C.F.R. §2.87; TMEP §§1110 *et seq.*

The examining attorney will be notified of the completed request to divide. Please note that the filing of a request to divide an application is not considered a proper response to an examining attorney's Office action and does not relieve an applicant of the duty to respond to any outstanding Office action or to take any other required action. TMEP §1110.05.

/Pamela Smith/
Paralegal Specialist
ITU/Divisional Unit
571 272-9509
571 273-9509 Fax

No response to this notice is required

To check the status of your application at any time, visit the Office's Trademark Applications and Registrations Retrieval (TARR) system at <http://tarr.uspto.gov/>

For general and other useful information about trademarks, you are encouraged to visit the Office's web site at <http://www.uspto.gov/main/trademarks.htm>

FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE INTENT TO USE UNIT.

Trademark Snap Shot Amendment & Mail Processing Stylesheet

(Table presents the data on Amendment & Mail Processing Complete)

OVERVIEW

SERIAL NUMBER	77363060	FILING DATE	01/03/2008
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	SERVICE MARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	BIBBINS, ODESSA B	L.O. ASSIGNED	105

PUB INFORMATION

RUN DATE	04/26/2008		
PUB DATE	N/A		
STATUS	641-NON-FINAL ACTION - MAILED		
STATUS DATE	04/02/2008		
LITERAL MARK ELEMENT	INTELLECT		
DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPUB 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

FILING BASIS

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	YES	1 (a)	YES	1 (a)	NO
1 (b)	NO	1 (b)	NO	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

MARK DATA

STANDARD CHARACTER MARK	YES
LITERAL MARK ELEMENT	INTELLECT
MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

CURRENT OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	Intellect Technical Solutions, Inc.
ADDRESS	Suite 235 15950 Bay Vista Drive Clearwater, FL 33760
ENTITY	03-CORPORATION
CITIZENSHIP	Florida

GOODS AND SERVICES

INTERNATIONAL CLASS	035
DESCRIPTION TEXT	Employment hiring, recruiting, placement, staffing and career networking services, namely, recruiting and placing information technology professionals and staffing application development and information technology infrastructure positions
INTERNATIONAL CLASS	042
DESCRIPTION TEXT	Consulting services in the field of computer-based information systems for businesses, namely, providing software development, quality assurance, project management and infrastructure consulting services

GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	035	FIRST USE DATE	12/31/1997	FIRST USE IN COMMERCE DATE	12/31/1997	CLASS STATUS	6-ACTIVE
INTERNATIONAL CLASS	042	FIRST USE DATE	12/31/1997	FIRST USE IN COMMERCE DATE	12/31/1997	CLASS STATUS	6-ACTIVE

MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO
------------------------	----

PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
04/25/2008	UNPR	I	UNRESPONSIVE/DUPLICATE PAPER RECEIVED	008
04/24/2008	ALIE	A	ASSIGNED TO LIE	007
04/21/2008	FAXX	I	FAX RECEIVED	006
04/02/2008	GNRN	O	NOTIFICATION OF NON-FINAL ACTION E-MAILED	005
04/02/2008	GNRT	F	NON-FINAL ACTION E-MAILED	004
04/02/2008	CNRT	R	NON-FINAL ACTION WRITTEN	003
04/02/2008	DOCK	D	ASSIGNED TO EXAMINER	002
01/07/2008	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

CURRENT CORRESPONDENCE INFORMATION

ATTORNEY	William G. Giltinan
CORRESPONDENCE ADDRESS	WILLIAM G. GILTINAN CARLTON FIELDS, P.A. PO BOX 3239 TAMPA, FL 33601-3239
DOMESTIC REPRESENTATIVE	NONE

INTELLECT

CARLTON FIELDS, P.A.

ATTORNEYS AT LAW

Corporate Center Three at International Plaza
4221 W. Boy Scout Boulevard, Suite 1000
Tampa, Florida 33607-5736

MAILING ADDRESS
P.O. Box 3239, Tampa, FL 33601-3239
Tel 813.223.7000 Fax 813.229.4133

FAX COVER SHEET

Date:	April 21, 2008	Phone Number	Fax Number
To:	Odessa BIBBINS U.S. Patent and Trademark Office	571-272-9105	571-273-9105
From:	William (Ty) Giltinan	813.229.4241	813.229.4133

Client/Matter No.: 50006/35697

Employee No.: 0420

Total Number of Pages Being Transmitted, Including Cover Sheet: 3

Message:

☐ Original to follow Via Regular Mail ☐ Original will Not be Sent ☐ Original will follow via Overnight Courier

.....
The information contained in this facsimile message is attorney privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone (if long distance, please call collect) and return the original message to us at the above address via the U.S. Postal Service. Thank you.
.....

If there are any problems or complications, please notify us immediately at:
813.223.7000

Telecopier operator: _____

CARLTON FIELDS, P.A.

Atlanta Miami Orlando St. Petersburg Tallahassee Tampa West Palm Beach

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO.: 77/363,060
APPLICANT: Intellect Technical Solutions, Inc.
MARK: INTELLECT
FILING DATE: January 3, 2008
TYPE: Service Mark
EXAMINING ATTORNEY: Odessa Bibbins
LAW OFFICE: 105

REQUEST TO DIVIDE APPLICATION

Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Sir or Madam:

Please divide the above-referenced application with the new divisional application being directed to consulting services in the field of computer-based information systems for businesses, namely providing software development, quality assurance, project management and infrastructure consulting services in International Class 42, and with the original application being directed to employment hiring, recruiting, placement, staffing and career networking services, namely recruiting and placing information technology professionals and staffing application development and information technology infrastructure positions in International Class 35. Please note that, in accordance with T.M.E.P. § 1110.02, this is a request to divide out an entire class from an application and, therefore, only the fee for dividing the application is required. Accordingly, please charge Deposit Account Number 03-0683 in the amount of \$100 as the filing fee for this divisional application. Please further note that, because the pending Office Action pertains only to International Class 35, pursuant to T.M.E.P. § 1110.05(1),

Applicant: Intellect Technical Solutions, Inc.
Mark: INTELLECT
Examiner: Odessa Bibbins

Serial No. 77/363,060
Filed: January 3, 2008
Law Office: 105

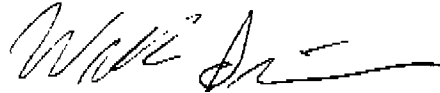
REQUEST TO DIVIDE APPLICATION

Page No. 2

Applicant respectfully submits that no response to the pending Office Action is due in the new application created by this request to divide.

Please charge any additional fees necessary or credit any overpayment to our deposit Account No. 03-0683.

Respectfully submitted,



William G. Giltinan
Carlton Fields, P.A.
P.O. Box 3239
Tampa, FL 33601
Attorney for Applicant

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being transmitted by facsimile to the United States Patent and Trademark Office, fax number 571-273-9105, on the date set forth below.



William G. Giltinan, Attorney of Record

4/21/08

Date

cc: Intellect Technical Solutions, Inc.

To: Intellect Technical Solutions, Inc. (trademarks@carltonfields.com)
Subject: TRADEMARK APPLICATION NO. 77363060 - INTELLECT - 50006/35697
Sent: 4/2/2008 7:08:25 PM
Sent As: ECOM105@USPTO.GOV
Attachments: Attachment - 1
Attachment - 2
Attachment - 3

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 77/363060

MARK: INTELLECT

77363060

CORRESPONDENT ADDRESS:

WILLIAM G. GILTINAN
CARLTON FIELDS, P.A.
PO BOX 3239
TAMPA, FL 33601-3239

RESPOND TO THIS ACTION:

<http://www.uspto.gov/teas/eTEASpageD.htm>

GENERAL TRADEMARK INFORMATION:

<http://www.uspto.gov/main/trademarks.htm>

APPLICANT: Intellect Technical Solutions,
Inc.

**CORRESPONDENT'S REFERENCE/DOCKET
NO:**

50006/35697

CORRESPONDENT E-MAIL ADDRESS:

trademarks@carltonfields.com

OFFICE ACTION

TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE ISSUE/MAILING DATE.

ISSUE/MAILING DATE: 4/2/2008

The assigned trademark examining attorney has reviewed the referenced application and has determined the following:

OFFICE SEARCH – 2(D) Likelihood of Confusion Refusal

This Refusal Applies to the *employment recruiting* services only in International Class 035 of the cited registration; and to International Class 035 only in this application.

Registration of the applied-for standard character mark INTELLECT is refused because of a likelihood of confusion with the typed mark, ENTELLECT, in U.S. Registration No. 3009990, for the *employment recruiting services in International Class 035 only*, under Trademark Act Section 2(d), 15 U.S.C.

§1052(d); TMEP §§1207.01 *et seq.* See the enclosed registration – Exhibit 1

Applicant has applied to register, INTELLECT for:

International Class 035 Employment hiring, recruiting, placement, staffing and career networking services, namely recruiting and placing information technology professionals and staffing application development and information technology infrastructure positions

International Class 042 Consulting services in the field of computer-based information systems for businesses, namely providing software development, quality assurance, project management and infrastructure consulting services

The registered mark is ENTELLECT for services in International Classes 041 and 044, and specifically for the *employment recruiting services* in International Class 035: **employment** counseling and **recruiting**, business consultation, business management and consultation, Business management consultation, Personnel management consultation, Psychological testing for the selection of personnel.

Trademark Act Section 2(d) bars registration of an applied-for mark that so resembles a registered mark that a potential consumer would be confused or mistaken or deceived as to the source of the goods and/or services of the applicant and registrant. See 15 U.S.C. § 1052(d). The Court in *In re E. I. Du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973), listed the principal factors to be considered in determining whether there is a likelihood of confusion under Section 2(d). Any one of the factors listed may be dominant in any given case, depending upon the evidence of record. *In re Dixie Restaurants, Inc.*, 105 F.3d 1405, 41 USPQ2d 1531, 1533 (Fed. Cir. 1997).

In this case, the following factors are the most relevant: similarity of the marks, similarity of the services. See *In re Opus One, Inc.*, 60 USPQ2d 1812 (TTAB 2001); *In re Dakin's Miniatures Inc.*, 59 USPQ2d 1593 (TTAB 1999); *In re Azteca Restaurant Enterprises, Inc.*, 50 USPQ2d 1209 (TTAB 1999); *In re L.C. Licensing Inc.*, 49 USPQ2d 1379 (TTAB 1998); TMEP §§1207.01 *et seq.*

Comparison of the Marks

In a likelihood of confusion determination, the marks are compared for similarities in sound, appearance, meaning or connotation. *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973). Similarity in any one of these elements may be sufficient to find a likelihood of confusion. *In re White Swan Ltd.*, 8 USPQ2d 1534, 1536 (TTAB 1988); *In re Lamson Oil Co.*, 6 USPQ2d 1041, 1043 (TTAB 1987); *In re Mack*, 197 USPQ 755 (TTAB 1977); TMEP §1207.01(b).

In the present case, applicant's mark, INTELLECT is identical in sound and similar in appearance to the registered mark ENTELLECT. Similarity in sound alone may be sufficient to support a finding of likelihood of confusion. *RE/MAX of America, Inc. v. Realty Mart, Inc.*, 207 USPQ 960, 964 (TTAB 1980); *Molenaar, Inc. v. Happy Toys Inc.*, 188 USPQ 469 (TTAB 1975); *In re Cresco Mfg. Co.*, 138 USPQ 401 (TTAB 1963); TMEP §1207.01(b)(iv). While applicant's mark begins with the letter "I" and registrant's with the letter E, these minor differences do not obviate the similarities between the mark, because the remaining identical letters in both marks, "NTELLECT", are identical in sound. Furthermore, when applicant's mark is compared to a registered mark, "the points of similarity are of greater importance

than the points of difference.” *Esso Standard Oil Co. v. Sun Oil Co.*, 229 F.2d 37, 40, 108 USPQ 161 (D.C. Cir. 1956) (internal citation omitted).

Comparison of the Services in International Class 035

Applicant’s *employment recruiting services for information technology professionals* are related to the registrant’s *employment recruiting services*. Since the identification of the registrant’s is very broad, it is presumed that the registration encompasses all services of the type described, including those in the applicant’s more specific identification, that they move in all normal channels of trade and that they are available to all potential customers. *In re Elbaum*, 211 USPQ 639, 640 (TTAB 1981); *In re Optica International*, 196 USPQ 775 (TTAB 1977); TMEP §1207.01(a)(iii).

The identification of the services in the subject application and the cited registration may in itself constitute evidence of the relatedness of the services. *Hewlett-Packard Co. v. Packard Press Inc.*, 281 F.3d 1261, 1267, 62 USPQ2d 1001 (Fed. Cir. 2002).

In this case, the applicant’s and registrant’s marks are identical in sound, highly similar in appearance, and their services related, such that if encountered by consumers, it may create the incorrect assumption that they originate from the same source, and thus likely to cause confusion. Any doubt regarding a likelihood of confusion is resolved in favor of the prior registrant. *In re Hyper Shoppes (Ohio), Inc.*, 837 F.2d 463, 6 USPQ2d 1025 (Fed. Cir. 1988); TMEP §§1207.01(d)(i).

Although the Examining Attorney has refused registration, the applicant may respond to the refusal to register by submitting evidence and arguments in support of registration.

If the Applicant has questions about its application or needs assistance in responding to this Office action, please telephone the assigned Trademark Examining Attorney directly at the number below.

USPTO
/Odessa Bibbins/
Attorney Advisor
Law Office 105
Tel: 571-272-9425
Fax: 571-273-9425

RESPOND TO THIS ACTION: If there are any questions about the Office action, please contact the assigned examining attorney. A response to this Office action should be filed using the form available at <http://www.uspto.gov/teas/eTEASpageD.htm>. If notification of this Office action was received via e-mail, no response using this form may be filed for 72 hours after receipt of the notification. **Do not attempt to respond by e-mail as the USPTO does not accept e-mailed responses.**

If responding by paper mail, please include the following information: the application serial number, the mark, the filing date and the name, title/position, telephone number and e-mail address of the person

signing the response. Please use the following address: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

STATUS CHECK: Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.

Print: Apr 2, 2008

76539434

DESIGN MARK

Serial Number

76539434

Status

REGISTERED

Word Mark

ENTELLECT

Standard Character Mark

No

Registration Number

3009990

Date Registered

2005/11/01

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

Soni, Milena INDIVIDUAL UNITED STATES 972 Linda Vista Avenue Pasadena CALIFORNIA 91103

Goods/Services

Class Status -- ACTIVE. IC 044. US 100 101. G & S: Psychological counseling, Psychological consultation, Psychological testing services, Psychological testing. First Use: 2002/05/01. First Use In Commerce: 2002/05/01.

Goods/Services

Class Status -- ACTIVE. IC 041. US 100 101 107. G & S: Career counseling. First Use: 2002/05/01. First Use In Commerce: 2002/05/01.

Goods/Services

Class Status -- ACTIVE. IC 035. US 100 101 102. G & S: Employment counseling and recruiting, Business Consultation, Business management and consultation, Business management consultation, Personnel management consultation, Psychological testing for the selection of personnel. First Use: 2002/05/01. First Use In Commerce: 2002/05/01.

Print: Apr 2, 2008

76539434

Filing Date

2003/08/06

Examining Attorney

CARROLL, DORITT L.

Attorney of Record

Michael E Hoffman

ENTELLECT

To: Intellect Technical Solutions, Inc. (trademarks@carltonfields.com)
Subject: TRADEMARK APPLICATION NO. 77363060 - INTELLECT - 50006/35697
Sent: 4/2/2008 7:08:29 PM
Sent As: ECOM105@USPTO.GOV
Attachments:

IMPORTANT NOTICE
USPTO OFFICE ACTION HAS ISSUED ON 4/2/2008 FOR
APPLICATION SERIAL NO. 77363060

Please follow the instructions below to continue the prosecution of your application:

VIEW OFFICE ACTION: Click on this link
http://tportal.uspto.gov/external/portal/tow?DDA=Y&serial_number=77363060&doc_type=OOA&
(or copy and paste this URL into the address field of your browser), or visit
<http://tportal.uspto.gov/external/portal/tow> and enter the application serial number to access the Office action.

PLEASE NOTE: The Office action may not be immediately available but will be viewable within 24 hours of this notification.

RESPONSE MAY BE REQUIRED: You should carefully review the Office action to determine (1) if a response is required; (2) how to respond; and (3) the applicable response time period. Your response deadline will be calculated from 4/2/2008.

Do NOT hit "Reply" to this e-mail notification, or otherwise attempt to e-mail your response, as the USPTO does NOT accept e-mailed responses. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System response form at <http://www.uspto.gov/teas/eTEASpageD.htm>.

HELP: For *technical* assistance in accessing the Office action, please e-mail TDR@uspto.gov. Please contact the assigned examining attorney with questions about the Office action.

WARNING

- 1. The USPTO will NOT send a separate e-mail with the Office action attached.**
- 2. Failure to file any required response by the applicable deadline will result in the**

ABANDONMENT of your application.

*** User:Obibbins ***

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	526	0	526	334	0:02	*nt{v}l\$1{v}{ "ckq"}*[bi,ti] not dead [ld]
02	78	0	78	48	0:05	("intellect" "i n t e l l e c t" "in tellect" "intel lect" "intell ect") not dead [ld]
03	7	0	7	4	0:02	"intellect"[FM] not dead [ld]
04	295	0	295	203	0:03	*intellect*[bi,ti] not dead [ld]

Session started 4/2/2008 5:59:24 PM

Session finished 4/2/2008 6:34:29 PM

Total search duration 0 minutes 12 seconds

Session duration 35 minutes 5 seconds

Default NEAR limit=1 ADJ limit=1 ,

Sent to TIGRS as Serial Number: 77363060

Trademark/Service Mark Application, Principal Register

Serial Number: 77363060

Filing Date: 01/03/2008

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77363060
MARK INFORMATION	
*MARK	INTELLECT
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	INTELLECT
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Intellect Technical Solutions, Inc.
*STREET	15950 Bay Vista Drive
INTERNAL ADDRESS	Suite 235
*CITY	Clearwater
*STATE (Required for U.S. applicants)	Florida
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	33760
LEGAL ENTITY INFORMATION	
TYPE	corporation
STATE/COUNTRY OF INCORPORATION	Florida

GOODS AND/OR SERVICES AND BASIS INFORMATION

*INTERNATIONAL CLASS	035
*IDENTIFICATION	Employment hiring, recruiting, placement, staffing and career networking services, namely recruiting and placing information technology professionals and staffing application development and information technology infrastructure positions
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 12/31/1997
FIRST USE IN COMMERCE DATE	At least as early as 12/31/1997
SPECIMEN FILE NAME(S)	\\TICRS2\EXPORT15\773\630\77363060\xml1\APP0003.JP G
SPECIMEN DESCRIPTION	Screen shot of page from applicant's website
*INTERNATIONAL CLASS	042
*IDENTIFICATION	Consulting services in the field of computer-based information systems for businesses, namely providing software development, quality assurance, project management and infrastructure consulting services
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 12/31/1997
FIRST USE IN COMMERCE DATE	At least as early as 12/31/1997
SPECIMEN FILE NAME(S)	\\TICRS2\EXPORT15\773\630\77363060\xml1\APP0004.JP G
SPECIMEN DESCRIPTION	Screen shot of page from applicant's website
ATTORNEY INFORMATION	
NAME	William G. Giltinan
ATTORNEY DOCKET NUMBER	50006/35697
FIRM NAME	Carlton Fields, P.A.
STREET	P. O. Box 3239
CITY	Tampa
STATE	Florida

COUNTRY	United States
ZIP/POSTAL CODE	33601-3239
PHONE	813-229-4241
FAX	813-229-4133
EMAIL ADDRESS	trademarks@carltonfields.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
OTHER APPOINTED ATTORNEY	C. Douglas McDonald, Andrew C. Greenberg, James Wolfson, Gail Podolsky
CORRESPONDENCE INFORMATION	
NAME	William G. Giltinan
FIRM NAME	Carlton Fields, P.A.
STREET	P. O. Box 3239
CITY	Tampa
STATE	Florida
COUNTRY	United States
ZIP/POSTAL CODE	33601-3239
PHONE	813-229-4241
FAX	813-229-4133
EMAIL ADDRESS	trademarks@carltonfields.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	2
FEE PER CLASS	325
*TOTAL FEE DUE	650
*TOTAL FEE PAID	650
SIGNATURE INFORMATION	
SIGNATURE	/James Barge/
SIGNATORY'S NAME	James Barge
SIGNATORY'S POSITION	President

DATE SIGNED

01/02/2008

PTO Form 1478 (Rev 9/2006)
OMB No. 0651-0009 (Exp 12/31/2006)

Trademark/Service Mark Application, Principal Register

Serial Number: 77363060

Filing Date: 01/03/2008

To the Commissioner for Trademarks:

MARK: INTELLECT (Standard Characters, see mark)

The literal element of the mark consists of INTELLECT.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Intellect Technical Solutions, Inc., a corporation of Florida, having an address of
Suite 235,
15950 Bay Vista Drive
Clearwater, Florida 33760
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended.

International Class 035: Employment hiring, recruiting, placement, staffing and career networking services, namely recruiting and placing information technology professionals and staffing application development and information technology infrastructure positions

Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, or the applicant's predecessor in interest used the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended.

In International Class 035, the mark was first used at least as early as 12/31/1997, and first used in commerce at least as early as 12/31/1997, and is now in use in such commerce. The applicant is submitting one specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) Screen shot of page from applicant's website. Specimen File1

International Class 042: Consulting services in the field of computer-based information systems for businesses, namely providing software development, quality assurance, project management and

infrastructure consulting services

Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, or the applicant's predecessor in interest used the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended.

In International Class 042, the mark was first used at least as early as 12/31/1997, and first used in commerce at least as early as 12/31/1997, and is now in use in such commerce. The applicant is submitting one specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) Screen shot of page from applicant's website. Specimen File1

The applicant hereby appoints William G. Giltinan and C. Douglas McDonald, Andrew C. Greenberg, James Wolfson, Gail Podolsky of Carlton Fields, P.A.

P. O. Box 3239

Tampa, Florida 33601-3239

United States

to submit this application on behalf of the applicant. The attorney docket/reference number is 50006/35697.

Correspondence Information: William G. Giltinan

P. O. Box 3239

Tampa, Florida 33601-3239

813-229-4241(phone)

813-229-4133(fax)

trademarks@carltonfields.com (authorized)

A fee payment in the amount of \$650 has been submitted with the application, representing payment for 2 class(es).

Declaration

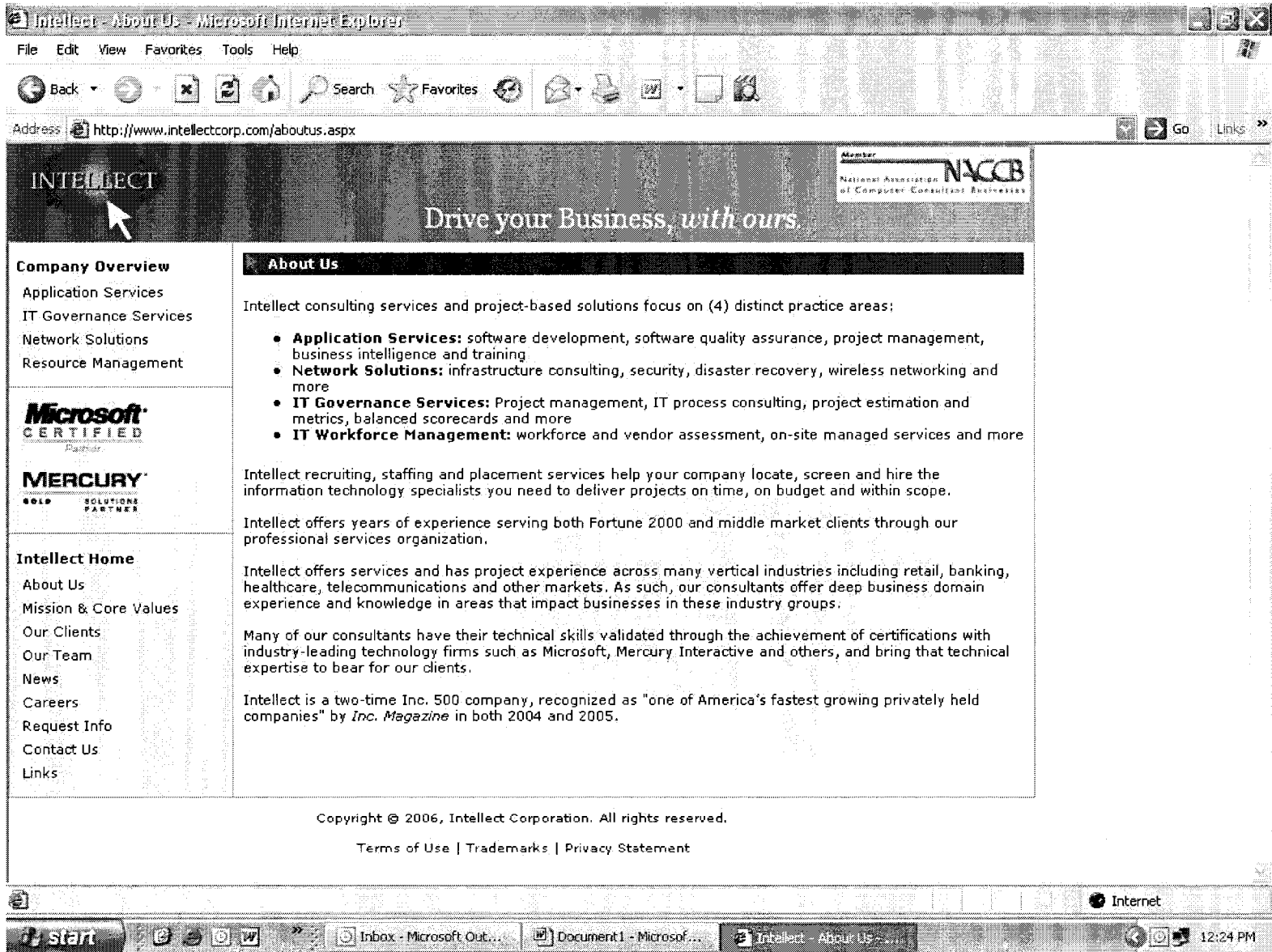
The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

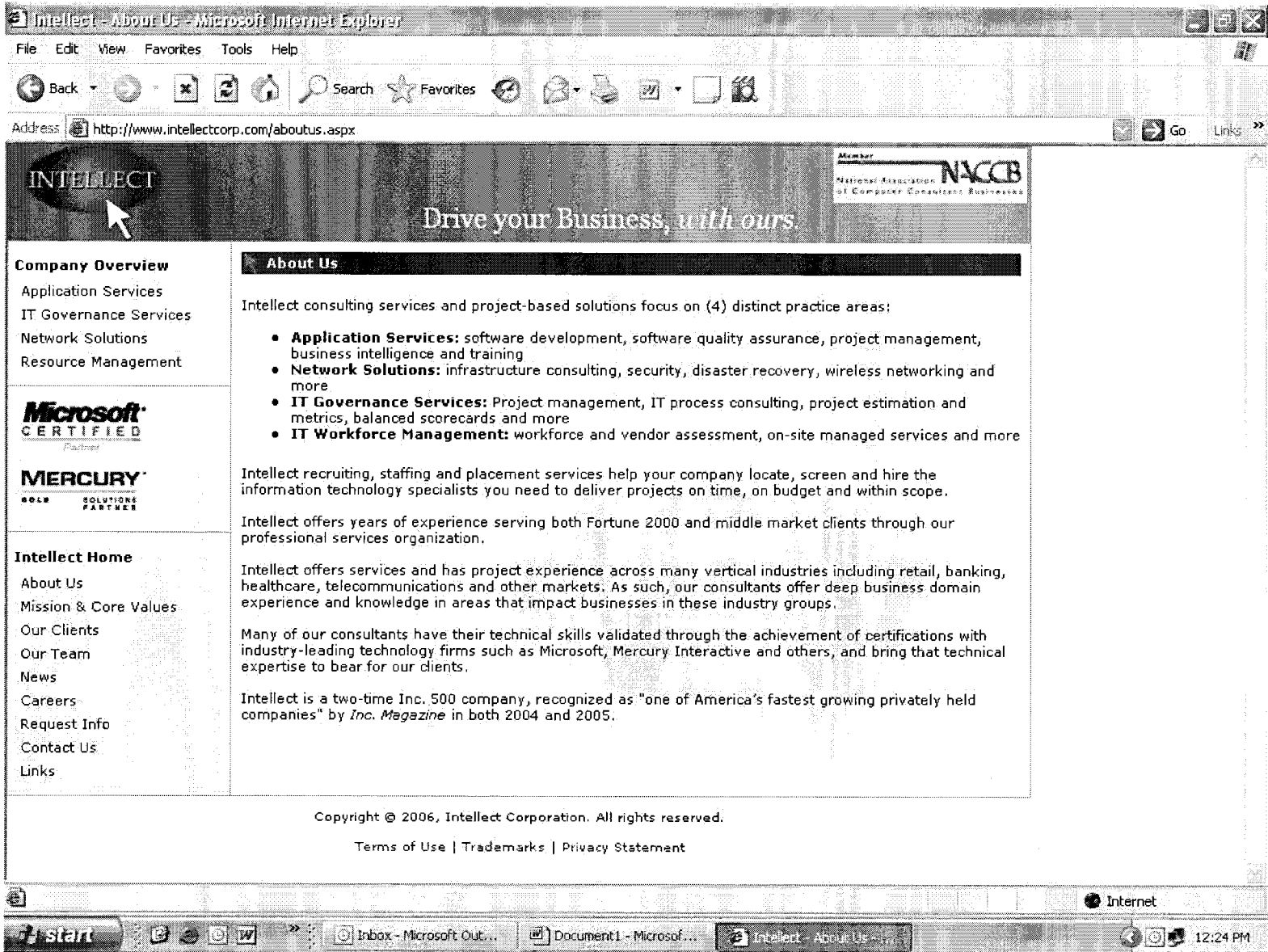
Signature: /James Barge/ Date Signed: 01/02/2008
Signatory's Name: James Barge
Signatory's Position: President

RAM Sale Number: 4639
RAM Accounting Date: 01/03/2008

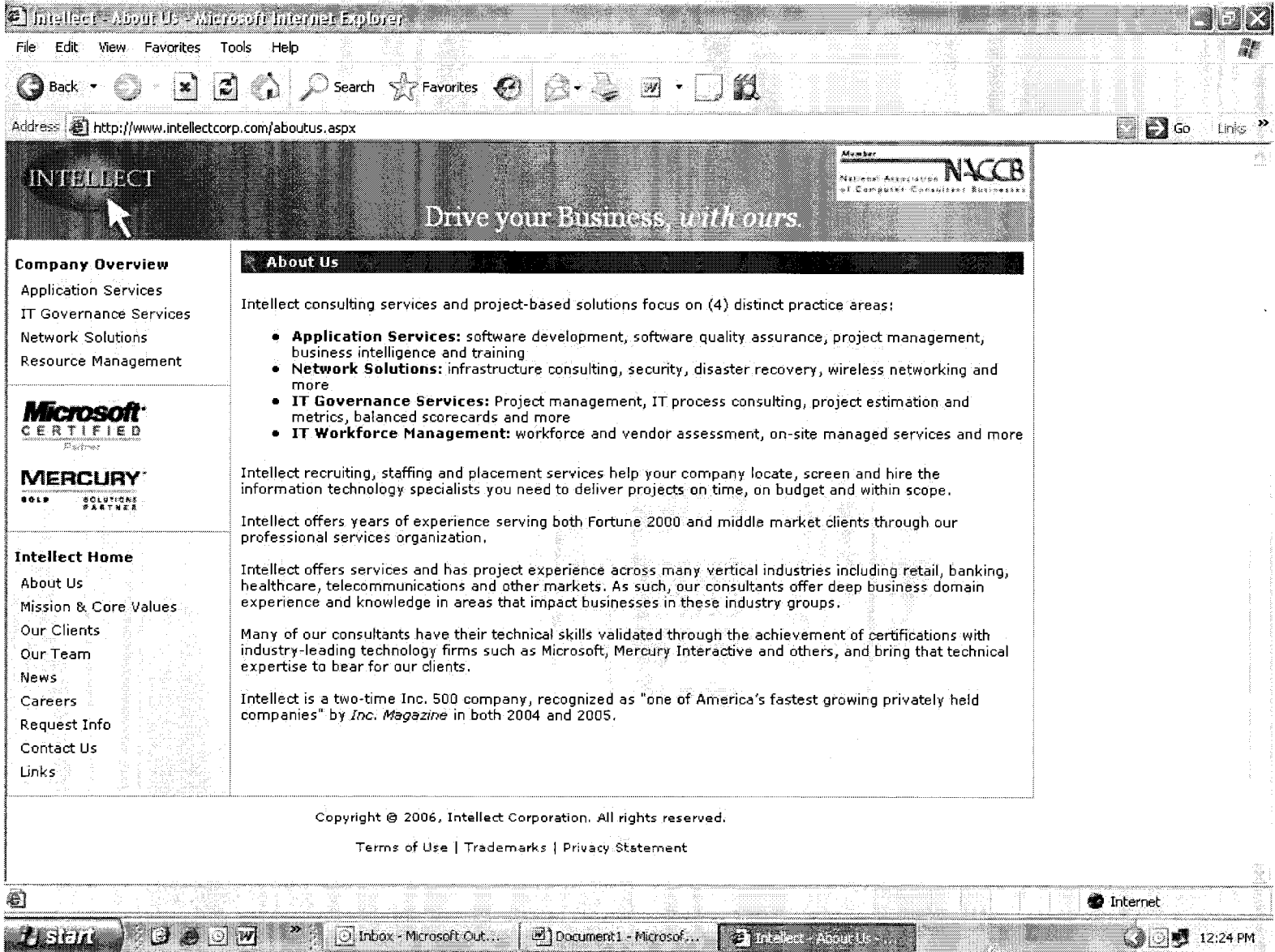
Serial Number: 77363060
Internet Transmission Date: Thu Jan 03 08:53:36 EST 2008
TEAS Stamp: USPTO/BAS-66.193.165.130-200801030853364
51057-77363060-4006fd8feb3fbcc4af1eaa15d
5efde7b390-DA-4639-20080102145805877605

INTELLECT





INTELLECT

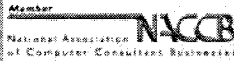



Intellect - About Us - Microsoft Internet Explorer

File Edit View Favorites Tools Help

Back Forward Stop Reload Home Search Favorites

Address http://www.intellectcorp.com/aboutus.aspx Go Links



Drive your Business, with ours.

Company Overview

- Application Services
- IT Governance Services
- Network Solutions
- Resource Management

Microsoft CERTIFIED
Partner

MERCURY
SOLUTIONS PARTNER

Intellect Home

- About Us
- Mission & Core Values
- Our Clients
- Our Team
- News
- Careers
- Request Info
- Contact Us
- Links

About Us

Intellect consulting services and project-based solutions focus on (4) distinct practice areas:

- **Application Services:** software development, software quality assurance, project management, business intelligence and training
- **Network Solutions:** infrastructure consulting, security, disaster recovery, wireless networking and more
- **IT Governance Services:** Project management, IT process consulting, project estimation and metrics, balanced scorecards and more
- **IT Workforce Management:** workforce and vendor assessment, on-site managed services and more

Intellect recruiting, staffing and placement services help your company locate, screen and hire the information technology specialists you need to deliver projects on time, on budget and within scope.

Intellect offers years of experience serving both Fortune 2000 and middle market clients through our professional services organization.

Intellect offers services and has project experience across many vertical industries including retail, banking, healthcare, telecommunications and other markets. As such, our consultants offer deep business domain experience and knowledge in areas that impact businesses in these industry groups.

Many of our consultants have their technical skills validated through the achievement of certifications with industry-leading technology firms such as Microsoft, Mercury Interactive and others, and bring that technical expertise to bear for our clients.

Intellect is a two-time Inc. 500 company, recognized as "one of America's fastest growing privately held companies" by *Inc. Magazine* in both 2004 and 2005.

Copyright © 2006, Intellect Corporation. All rights reserved.

Terms of Use | Trademarks | Privacy Statement

start Internet

Inbox - Microsoft Out... Document1 - Microsof... Intellect - About Us - ... 12:24 PM